



General Assembly

Distr.: Limited
7 June 2013

Original: English

Human Rights Council

Twenty-third session

Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Angola, Argentina, Armenia*, Brazil, Burkina Faso, Costa Rica, Cuba*, Egypt*, Ethiopia, Guatemala, India, Indonesia, Morocco*, Norway*, Pakistan, Peru, Senegal*, South Africa*, Sri Lanka*, State of Palestine*, Thailand, Timor-Leste*, Tunisia*, Uruguay*, Venezuela (Bolivarian Republic of): draft resolution

23/...Access to medicines in the context of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

The Human Rights Council,

Reaffirming the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Reaffirming also that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right that derives from the inherent dignity of the human person,

Recalling Human Rights Council resolution 17/14 of 17 June 2011 and all previous resolutions and decisions on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health adopted by the Council, the General Assembly and the Commission on Human Rights, as well as Assembly resolution 67/81 of 12 December 2012 on global health and foreign policy,

Recalling also the Declaration on the Right to Development, which, inter alia, establishes that States should take, at the national level, all measures necessary for the realization of the right to development and should ensure, inter alia, equality of opportunity for all in their access to basic resources, such as health services,

Noting with concern that, for millions of people throughout the world, the full enjoyment of the right to the highest attainable standard of physical and mental health remains a distant goal and that, in many cases, especially for those living in poverty, this goal is becoming increasingly remote,

* Non-member State of the Human Rights Council.

Recognizing the need for States, in cooperation with international organizations and civil society, including non-governmental organizations and the private sector, to create favourable conditions at the national, regional and international levels to ensure the full and efficacious enjoyment of the right of everyone to the highest attainable standard of physical and mental health,

Recalling that the Doha Ministerial Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights and Public Health confirms that the Agreement does not and should not prevent members of the World Trade Organization from taking measures to protect public health and that the Declaration, accordingly, while reiterating the commitment to the Agreement, affirms that it can and should be interpreted and implemented in a manner supportive of the rights of members of the World Trade Organization to protect public health and, in particular, to promote access to medicines for all, and further recognizes, in this connection, the right of members of the Organization to use, to the full, the provisions of the above-mentioned Agreement, which provide flexibility for this purpose,

Regretting the high number of people still without access to affordable, safe, efficacious and quality medicines, and underscoring that improving such access could save millions of lives every year, and noting with deep concern that more than one billion people still do not have access to essential medicines,

Concerned about the interrelatedness between poverty and the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in particular the fact that ill health can be both a cause and a consequence of poverty,

Concerned also that the increasing incidence of non-communicable diseases constitutes a heavy burden on society, with serious social and economic consequences, which represent a leading threat to human health and development, and recognizing the urgent need for greater measures at the global, regional and national levels to prevent and control such diseases in order to contribute to the full realization of the right of everyone to the highest attainable standard of physical and mental health,

Recalling General Assembly resolution 60/251 of 15 March 2006 and Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007,

1. *Welcomes* the study of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on existing challenges with regard to access to medicines in the context of that right, ways to overcome them and good practices;¹

2. *Recognizes* that access to medicines is one of the fundamental elements in achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

3. *Stresses* the responsibility of States to ensure access for all, without discrimination, to medicines, in particular essential medicines that are affordable, safe, efficacious and of quality;

4. *Emphasizes* the central role of prevention, particularly through the promotion of healthy lifestyles and the strengthening of health systems;

5. *Encourages* States:

¹ A/HRC/23/42.

-
- (a) To implement or, where they do not exist, to establish, national health frameworks that ensure access for all, without discrimination, to medicines that are affordable, safe, efficacious and of quality;
- (b) To develop a policy framework on local production of medicines, where appropriate, to ensure long-term accessibility and affordability of medicines;
- (c) To adopt price regulation measures with a view to ensuring access of the population, and particularly individuals in vulnerable situations, to affordable, quality, safe and efficacious medicines;
- (d) To raise awareness about the rational use of medicines, including through the wide dissemination of information in that regard, taking into account the potential risks to health;
- (e) To promote the participation of relevant stakeholders, as appropriate, in formulating national medicines policies and programmes, while safeguarding public health from undue influence by any form of real, perceived or potential conflict of interest;
- (f) To strengthen or, where they do not exist, to establish national monitoring and accountability mechanisms for policies relating to access to medicines;
- (g) To ensure that procurement practices and procedures for medicines are transparent, fair, competitive and non-discriminatory;
- (h) To promote access to medicines for all, including through the use, to the full, of the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights, which provide flexibility for that purpose, recognizing that intellectual property protection is important for the development of new medicines, as well as the concerns about its effects on prices;
- (i) To foster the development of technology and the voluntary transfer of technology to developing countries on mutually agreed terms aligned with national priorities, bearing in mind that developed countries shall provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least-developed countries in order to enable them to create a sound and viable technological base;
- (j) To apply measures and procedures for enforcing intellectual property rights in such a manner as to avoid creating barriers to the legitimate trade of affordable, safe, efficacious and quality medicines, and to provide for safeguards against the abuse of such measures and procedures;
- (k) To strengthen or, where they do not exist, to establish national health regulatory systems that ensure the quality, safety and efficacy of medicines;
- (l) To promote the improvement of health infrastructures necessary for access to affordable, safe, efficacious and quality medicines, such as storage and distribution systems;
- (m) To ensure that investment, industrial or other policies promote development and access to medicines, in particular their affordability;
- (n) To explore and promote a range of incentive schemes, including the possible scope for delinkage of the costs of research and development and the price of health products, in accordance with the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property;
- (o) To improve domestic management capacities in order to improve delivery and access to quality, safe, efficacious and affordable medicines;

(p) To address unethical commercial marketing and promotion of medicines by pharmaceutical companies through legal accountability measures;

(q) To promote universal health coverage in national systems as one of the efficacious means to promote access to medicines for all;

6. *Calls upon* the international community to continue to assist developing countries in promoting the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in particular through access to medicines that are affordable, safe, efficacious and of quality, including through financial and technical support and training of personnel, while recognizing that the primary responsibility for promoting and protecting all human rights rests with States;

7. *Invites* relevant United Nations programmes and agencies, in particular the World Health Organization, as well as other relevant international organizations, within their mandates, to consider the findings of the study of the Special Rapporteur;

8. *Recognizes* the innovative funding mechanisms that contribute to the availability of vaccines and medicines in developing countries, such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the GAVI Alliance and the International Drug Purchase Facility, UNITAID, and calls upon all States, United Nations programmes and agencies, in particular the World Health Organization, and relevant intergovernmental organizations, within their respective mandates, and encourages relevant stakeholders, including pharmaceutical companies, while safeguarding public health from undue influence by any real or perceived conflict of interest, to further collaborate to enable equitable access to quality, safe and efficacious medicines that are affordable to all, including those living in poverty, children and other persons in vulnerable situations;

9. *Urges* all States, United Nations agencies and programmes and relevant intergovernmental organizations, within their respective mandates, and encourages non-governmental organizations and relevant stakeholders, to promote the innovative research and development, the availability and the affordability of new drugs for diseases disproportionately affecting developing countries, as well as safe, efficacious and quality medicines for non-communicable diseases, and to address the challenges arising from the growing burden of such diseases;

10. *Invites* the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, within his existing mandate, while considering the many ways towards the full realization of the right to health, to continue to focus on the issue of access to medicines, including in his regular country missions.